

1 EDDIE R. JIMENEZ (SBN 10376)
ejimenez@aldridgepite.com
2 **ALDRIDGE PITE, LLP**
520 South 4th St., Suite 360,
3 Las Vegas, NV 89101
Telephone: (858) 750-7600
4 Facsimile: (619) 590-1385

5 **MAILING ADDRESS:**

6 4375 Jutland Drive, Suite 200
P.O. Box 17933
7 San Diego, California 92177-0933

8 Attorneys for Secured Creditor MTGLQ Investors, LP

9
10 **UNITED STATES BANKRUPTCY COURT**
11 **DISTRICT OF NEVADA - LAS VEGAS DIVISION**
12

13 In re

14 ELLEN J. ROSS

15 Debtor.

BK-S-13-14261-MKN

Chapter 11

16 **STIPULATION RE: TREATMENT OF**
17 **MTGLQ INVESTORS, LP'S CLAIM**
18 **UNDER DEBTOR'S PROPOSED**
19 **CHAPTER 11 PLAN OF**
20 **REORGANIZATION**

21 **Confirmation Hearing:**

Date: June 1, 2016

Time: 9:30 AM

22 This Stipulation Re: Treatment of MTGLQ Investors, LP's Claim Under Debtor's
23 Proposed Chapter 11 Plan of Reorganization (the "Stipulation") is entered into by and between
24 Secured Creditor, MTGLQ Investors, LP ("Creditor"), by and through its attorneys of record,
25 and Ellen J. Ross, the Debtor and Debtor-In-Possession herein (the "Debtor"), by and through
26 her attorneys of record.

27 The property which is the subject of this matter is commonly known as 220 East
28 Shelbourne Av, Las Vegas, NV 89123 (hereinafter the "Subject Property").

1 On or about November 22, 2002, Debtor executed a promissory note in the principal sum
2 of \$94,971.00 (the "Note"), which was made payable to Wells Fargo Home Mortgage, Inc.

3 The Note is secured by a deed of trust (the "Deed of Trust") encumbering the Subject
4 Property. Creditor is currently in possession of the Note, which is indorsed in blank. The Note
5 and Deed of Trust shall be collectively referred to as the "Claim".

6 On May 15, 2013, Debtor filed a voluntary petition under Chapter 11 of the United States
7 Bankruptcy Code and was assigned Bankruptcy Case No. BK-S-13-14261-MKN.

8 THE PARTIES STIPULATE AS FOLLOWS:

9 1. Creditor shall have an unmodified Claim, which shall be controlled by the terms
10 and provisions in the Note and Deed of Trust. Debtor agrees not to propose a Chapter 11 Plan
11 (the "Plan") that would seek to alter or modify the legal, equitable, and contractual rights of
12 Creditor's Claim under the Note and Deed of Trust. Creditor's Claim shall be impaired pursuant
13 to 11 U.S.C. §1124 only to the extent to provide for the cure of any contractual arrearages on the
14 Claim, as outlined herein. To the extent Creditor has commenced any foreclosure proceedings
15 against the Subject Property, including recording a Notice of Default and/or Notice of Sale prior
16 to the Bankruptcy, those documents shall remain in full force and effect until the Debtor has
17 fully cured the arrearages as set forth herein.

18 2. The Debtor acknowledges and agrees that as of the filing of this Stipulation,
19 Creditor's Claim against the Subject Property is fully secured, and includes arrearages in the amount
20 of \$8,728.52. Debtor shall tender monthly payments of \$363.69 to cure said arrearages, commencing
21 May 1, 2016, and continuing until April 1, 2018, when all such outstanding amounts are to be
22 paid in full.

23 3. Effective immediately, Debtor shall pay any and all property taxes for the Subject
24 Property when due and obtain and maintain real property insurance for the Subject Property that
25 is also in accordance with any requirements set forth in the Deed of Trust. Debtor agrees to
26 provide Creditor proof of insurance in accordance with the Note and Deed of Trust and upon
27 request by Creditor. In the event Debtor fails to timely pay taxes and insurance for the Subject
28 Property, Creditor retains the right to pay those amounts and establish an escrow account.

1 4. Except as otherwise expressly provided herein, all remaining terms of the Note
2 and Deed of Trust, which are incorporated herein by this reference, shall govern the treatment of
3 Creditor's Claim.

4 5. Debtor acknowledges and agrees that Section 8.7 of the Debtor's Plan shall have
5 no force or effect as to Creditor, its successors and/or assigns. This Section shall not apply to
6 treatment of Creditor's Claim. The treatment of Creditor's Claim shall exclusively be controlled
7 by this Stipulation and the provisions of the Note and Deed of Trust

8 6. In the event of any future default on any of the above-described provisions,
9 inclusive of this Stipulation, Creditor shall provide written notice via first class mail to Debtor at
10 214 E Shelbourne Ave, Las Vegas, NV 89123 and to Debtor's attorney of record, provided the
11 Debtor's bankruptcy remains active, Steven L Yarmy, 7464 W. Sahara Avenue, Las Vegas, NV
12 89117, indicating the nature of default. If Debtor fails to cure the default with certified funds
13 after passage of fifteen (15) calendar days from the date said written notice is placed in the mail,
14 then the Automatic Stay shall terminate and Creditor may proceed to foreclose its security
15 interest in the Subject Property under the terms of the Note and Deed of Trust and pursuant to
16 applicable state law and thereafter commence any action necessary to obtain complete possession
17 of the Subject Property without further notice, order, or proceeding of this Court. This provision
18 shall only be effective prior to the closing of the bankruptcy case, either administratively or
19 finally. Should the Debtor default under the terms of this Stipulation and/or Chapter 11 Plan after
20 the case is closed, Creditor may proceed to foreclose its security interest under the terms of the
21 Note, Deed of Trust and applicable state law.

22 7. The acceptance or rejection by Creditor of a late or partial payment shall not act
23 as a waiver of Creditor's right to proceed hereunder.

24 8. In the event that Creditor is granted relief from the automatic stay, the parties
25 hereby stipulate that the 14-day stay provided by Bankruptcy Rule 4001(a)(3) is waived.

26 9. In the event the Debtor defaults under this Stipulation and Creditor forwards a 15-
27 day default letter to Debtor, Debtor shall be required to pay Creditor's attorneys' fees and costs
28 incurred for each default letter submitted, in addition to the default amount stated therein, in

1 order to cure the default. Any notice of default that Creditor provides Debtor and/or Debtor's
2 attorneys pursuant to this Stipulation shall not be construed as a communication under the Fair
3 Debt Collection Practices Act, 15 U.S.C. §1692.

4 10. At the request and discretion of the Creditor, Debtor shall execute such
5 documents and instruments as are necessary to reflect the Debtor as the borrower of the Secured
6 Claim, and to modify the terms of the obligation to conform to the provisions of this Stipulation.

7 12. The terms of this Stipulation shall constitute the complete and entire treatment of
8 Creditor's Claim and may not be modified, altered, or changed by the Plan, any confirmation
9 order thereon, any subsequently filed Amended Chapter 11 Plan of Reorganization and
10 confirmation order thereon or any modification thereof without the express written consent of the
11 Creditor. The above terms of this Stipulation shall be deemed incorporated into the Plan and/or
12 any subsequently filed Amended Chapter 11 Plan of Reorganization. The Debtor shall file an
13 amended Chapter 11 plan and/or confirmation order that incorporates the terms of this
14 Stipulation and attach a copy of this Stipulation as an exhibit to the amended plan and/or
15 confirmation order. The Debtor's failure to comply with this provision shall constitute a default
16 under the terms of the Stipulation. In the event of a conflict between this Stipulation and
17 Debtor's Chapter 11 Plan, confirmation order or any amendments or modifications thereof, the
18 terms of this Stipulation shall control.

19 13. In the event Debtor's case is dismissed or converted to any other chapter under
20 Title 11 of the United States Bankruptcy Code, Creditor shall retain its lien in the full amount
21 due under the Note, to be paid at the rate and terms provided for under the Note and Deed of
22 Trust, and the automatic stay shall be terminated without further notice, order or proceeding of
23 the Court.

24 14. In the event the Debtor asserts Creditor has failed to properly update its system to
25 comply with the terms of this Stipulation within a reasonable period of time after an order is
26 entered confirming the Debtor's Chapter 11 Plan of Reorganization, which shall be no less than
27 ninety (90) days, the Debtor shall be required to provide written notice of the alleged lack of
28 compliance to Creditor and Creditor's counsel of record, Aldridge Pite, LLP, at 4375 Jutland

1 Drive, Suite 200, San Diego, CA 92177, as well as electronically at ejimenez@aldridgepите.com
2 and ecfnvb@aldridgepите.com, indicting the nature of the alleged lack of compliance. If Creditor
3 fails to either remedy the alleged lack of compliance and/or provide an explanation refuting the
4 Debtor's allegation after the passage of ninety (90) days from the date Creditor receives said
5 written notice (the "Meet and Confer Period") Debtor may proceed with filing the appropriate
6 motion in bankruptcy court seeking Creditor's compliance. However, provided Creditor has in
7 good faith sought to remedy Debtor's grievance during the Meet and Confer Period, Debtor shall
8 not request nor be entitled to an award of their attorneys' fees and costs as a result of filing said
9 motion.

10 15. Except as expressly provided herein, the Debtor waives any and all claims, causes
11 of action, whether known or unknown, he currently has against Creditor, and its respective
12 agents, parents, affiliates, subsidiaries, attorneys, predecessors, current and subsequent holders of
13 the Note and Deed of Trust (collectively the "Loan"), successors and assigns in relation to the
14 Loan referenced herein and any and all agreements which exist between them regarding or
15 relating to the Loan prior to the date of this Stipulation. This waiver includes Debtor's right to
16 object to Creditor's Claim. The Debtor also releases Creditor and its respective agents, parents,
17 affiliates, subsidiaries, attorneys, predecessors, current and subsequent holders of the Loan,
18 successors and assigns from any liability in relation to the Loan prior to the date of this
19 Stipulation.

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1 16. In exchange for the forgoing, this Stipulation shall constitute a ballot voting in
2 favor of the Debtor's Chapter 11 Plan of Reorganization for the Claim.

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4 Dated: April 14, 2016

/s/ Steven L. Yarmy
STEVEN L YARMY
Attorney for the Debtor

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6 Dated: April 7, 2016

ALDRIDGE PITE, LLP

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8
9 /s/ Eddie Jimenez
EDDIE JIMENEZ
Attorneys for MTGLQ Investors, LP